



COMDTINST 4200.31
19 OCT 1988

COMMANDANT INSTRUCTION 4200.31

Subj: Competition Advocate Program

1. PURPOSE. This instruction prescribes the role of the Coast Guard's Senior Competition Advocate in agency acquisition programs.
2. BACKGROUND. Three recent legislative measures have had a major effect on how the Federal government acquires supplies and services by contract. These measures were enacted by Congress in response to concerns over the growing Federal budget deficit, and the widespread perception that government procurements, especially non-competitive procurements, have resulted in overpricing of government contracts. The three measures are: the Competition in Contracting Act of 1984 (CICA) (P. L. 98-369) which was passed as part of the Deficit Reduction Act of 1984; the Defense Procurement Reform Act of 1984 (P. L. 98-525) which was passed as part of the Defense Authorization Act of 1985; and the Small Business and Federal Procurement Competition Enhancement Act of 1984 (P. L. 98-577). Corresponding requirements may be implemented in various parts of the Federal Acquisition Regulation (FAR) and the Transportation Acquisition Regulation (TAR).
3. OBJECTIVES.
 - a. The Coast Guard's Competition Advocate Program shall ensure agency acquisition programs are conducted in a manner that supports statutory procurement reforms promoting competition in contracting. Primary emphasis shall be on promoting competition in the acquisition of major systems, and on planning for competition in the requirements definition and specification stages of all acquisitions greater than or equal to \$200,000, including planning for competition in the procurement of follow-on support. Activity competition advocates will be designated, as needed, at some procurement activities to support the Coast Guard Senior Competition Advocate's competition objectives.

3.
 - b. A summary analysis shows that the law, among other requirements, places responsibility in agency heads to: specify agency needs and solicit bids or proposals in a manner designed to achieve full and open competition (FAR Part 6, et al); use advance procurement planning and market research (FAR Part 7, 11 et al); develop specifications so as to obtain full and open competition, with preference given to use of functional specifications (FAR Part 10, et al); eliminate excessive pricing of replenishment spare parts; recover unjustified contract payments (FAR Part 15, 32, et al); continue and accelerate efforts to obtain fair and reasonable prices through effective competition (FAR Part 6, et al); encourage use of standard or commercially available spare parts (FAR Part 10, 11, et al); ensure that developers of commercial products are not required to provide technical data as a condition of procurement, except as needed to operate and maintain the product (FAR Part 27); promote full and open competition by eliminating obstacles in procurement procedures and practices; expand the industrial base (and thus increase competition) by promoting use of contracting opportunities (FAR Part 6, et al); and provide opportunity for greater participation in the competitive procurement process by small and business and small disadvantaged business (FAR Part 19).
 - c. Competition advocates are required to be established in each executive agency and each procuring activity within the agency. The advocate for competition is responsible for challenging barriers to and promoting full and open competition in agency procurements, including unnecessarily detailed specifications and unnecessarily restrictive statements of need. The law provides that the competition advocate shall be given assistance as may be necessary to carry out the advocate's duties and responsibilities, including specialist in engineering, technical operations, contract administration, financial management, supply management, and utilization of small and disadvantaged business concerns.
 - d. Examples of the types of authorities and strategies provided by law to enhance competition are:
 - (1) contracting officer review and challenge of proprietary data restrictions asserted by contractors;
 - (2) requirement for certification of commercial prices for supplies;
 - (3) use of economic order quantities;
 - (4) prohibition against limitations on subcontractor sales direct to the government;
 - (5) recognition in personnel evaluations of efforts to increase competition and achieve cost savings;

3. d.
 - (6) requirement to consider incorporating items available within the Government's supply system, or from other known commercial sources, in designing major systems;
 - (7) identification of competitive opportunities for items likely to be re-procured in substantial quantities;
 - (8) review of the procurement history and item descriptions of supplies to determine the most advantageous contract source;
 - (9) encouragement of new competition by limiting qualification requirements;
 - (10) establishment of technical data rights; and
 - (11) establishment of Small Business Administration (SBA) Break-out Procurement Center Representative (BPCR) advocates for DOD procurement centers that award at least \$150 million in contracts for non-commercial items, and to other procurement centers designated by the SBA Administrator.
4. MAJOR SYSTEM. The following definition applies to the stated program emphasis on promoting competition in the acquisition of major systems:
 - a. Both the Defense Procurement Reform Act and the Small Business and Federal Competition Enhancement Act define a major system as a combination of elements which function together to perform a mission; and:
 - (1) in DOD, the system's Research, Development, Test & Evaluation (RDT&E) costs exceed \$75 million, or total expenditure for system procurement will exceed \$300 million;
 - (2) in civilian agencies, total expenditures for the system will exceed \$750,000, or the system meets dollar thresholds for a major system established by the agency pursuant to OMB Circular A-109, entitled "Major Systems Acquisition".
 - b. OMB Circular A-109 defines a major system as the combination of elements that will function together to produce the capabilities required to fulfill a mission need. Major system acquisition programs are directed at and critical to fulfilling an agency mission; entail the allocation of relatively large resources; and warrant special management attention. Additional criteria and relative dollar thresholds for identifying agency programs subject to the OMB Circular provisions are left to the discretion of the executive agency head. Currently, DOT Order 4200.14B, entitled "Major Systems Acquisition and Approval", sets agency thresholds of \$150 million or more in total acquisition cost, or \$25 million or more in research and development funds.

5. RESPONSIBILITIES.

a. The Coast Guard Senior Competition Advocate:

- (1) is responsible for challenging barriers to and promoting full and open competition in procurement;
- (2) is responsible for reviewing and approving, or recommending approval, of justifications for other than full and open competition that are fully supported by the facts and that otherwise conform to applicable laws and regulations;
- (3) has adopted the policy of examining major systems acquisition programs, at early stages of requirements definition and specification, for opportunities to implement strategies that encourage competition;
- (4) has adopted the policy of reviewing advance acquisition plans and other pre-procurement planning documents for acquisitions greater than or equal to \$200,000 to seek ways of enhancing competition. Currently, particular emphasis is placed on identifying unduly restrictive specifications, obtaining re-procurement technical data, challenging unreasonable delivery schedules, and accounting for spare parts support requirements.

b. Commandant (G-CPM/S-3), the Competition Advocate Assistant, will:

- (1) coordinate strategies on specific issues which further the coast Guard-wide goals of enhancing competition through timely planning, beginning at the requirements definition stage; and
- (2) monitor programs and actions taken throughout the Coast Guard which affect the service's posture of supporting full and open competition as the means for achieving overall savings in program acquisition dollars.

c. Commandant (G-CPM) will provide support to the Coast Guard Senior Competition Advocate through assignment of procurement analyst to:

- (1) matrix organizations supporting major system acquisitions;
- (2) reviews of acquisition planning documents;
- (3) active participation as voting members in formal source evaluation boards; and
- (4) generally assisting contracting officers and program officers in improving efforts to enhance full and open competition in procurement.

5. d. Office of Acquisition, and other Office, program directors shall:
 - (1) coordinate advance acquisition planning, including planning for competition in the procurement of follow-on support, with the Coast Guard Senior Competition Advocate, or designee, through clearance (sequentially, concurrently, or by other appropriate means) of acquisition planning documents, e.g., Mission Need Statements (MNS), Key Decision Memoranda (KDM), Sponsors Requirements Documents (SRD), Acquisition Papers (AP), Selection Plans (SP), Advance Acquisition Plans (AAP), etc.;
 - (2) include Commandant (G-CPM) representatives in matrix organization supporting major systems acquisitions and as voting members on formal source evaluation boards; and
 - (3) seek advice on competition strategy from the contracting officer and/or Commandant (G-CPM) when needed.
6. FORMAL NOTIFICATION. Once a project manager has been identified for a major system acquisition, the Commandant (G-CPM) shall notify the project manager in writing of the procurement analyst assigned to the Project. A sample written notification is shown in enclosure (1).
7. ACTION. Area and district commanders, commanders of maintenance and logistics commands, unit commanding officers and Commander, Coast Ward Activities Europe, shall ensure acquisitions are planned and managed in a manner designed to ensure maximum practicable competition. In doing so, they shall conform to the Competition Advocate Program objectives and policies set forth in this instruction.
8. CHANGES. Any questions or suggested changes on the guidance contained in this directive shall be directed to Commandant (G-CPM/S-3).

M. E. GILBERT
Acting Chief of Staff

Encl: (1) SAMPLE WRITTEN NOTIFICATION TO PROJECT MANAGER

SAMPLE WRITTEN NOTIFICATION TO PROJECT MANAGER

Subj: G-CPM REPRESENTATIVE FOR _____ PROJECT

From: Chief, Procurement Management Division

G-CPM
ANALYSTNAME: X711##

To: (PROJECT MANAGER)

1. _____ will be G-CPM point-of-contact for the _____ project and will be responsible for:

a. Representing the Coast Guard Senior Competition Advocate to ensure that the system is competed to the maximum extent practical and that early consideration is given to future supportability of this system. Emphasis will be directed to how areas such as standardization and ability to competitively buy spare parts are addressed early in the design efforts. Acquisition strategies will be reviewed to insure that the requirements of the Federal Acquisition Regulation (FAR 7.105) are met.

b. Participating as a voting member on the Source Evaluation Board (SEB).

c. Reviewing all related documents requiring concurrent clearance.

2. For further information you may _____ contact at extension X711##.

Copy to: G-ACS
G-CPM/S-3